

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,)	
)	
)	
Plaintiff,)	Case No. 16-CR-2363 MCA
)	
vs.)	
)	
DIAMOND COLEMAN,)	
)	
Defendant.)	

Defendant's motion to continue hearing on motion to compel

Diamond Coleman, Defendant, by and through undersigned counsel, Aric G. Elsenheimer, moves the court to continue the hearing on his motion to compel currently scheduled for June 27, 2017. In support, Mr. Coleman states:

1. On May 16, 2017, Mr. Coleman filed a motion to compel discovery on the issue of selective enforcement. The government filed its response on May 30, 2017 and Mr. Coleman filed a reply on June 13, 2017. A hearing on this motion is scheduled for June 27, 2017.

2. Mr. Coleman requests a continuance of the hearing to engage in discussions with the government regarding a potential resolution of the motion to compel. There is a reasonable possibility that the parties may be able to resolve the issues of discovery raised in the motion to compel. In *United States v. Yusef Casanova*, 16-CR-2917 JP, also an

ATF case in which the issue of selective enforcement was raised by the defense, Judge Parker granted Mr. Casanova's motion to compel as to some discovery requests and ordered the parties to discuss the discovery items that may be disclosed by agreement and to notify the court if disputes remain. Given the prospective disclosure of items in the *Casanova* case, the parties in Mr. Coleman's case are also in discussions about which discovery items may be disclosed by agreement. Such an agreement may render Mr. Coleman's motion to compel moot, or, at the very least, narrow the items of discovery that remain in dispute, thus focusing the parties' attention on more discrete issues and saving judicial resources in the process. In light of this, the parties request a continuance of the hearing on Mr. Coleman's motion to compel and asks that the Court reschedule the hearing on the Court's August calendar.

3. In addition to a potential agreement on Mr. Coleman's motion to compel, the parties are also in the preliminary stages of plea negotiations. There is a possibility of a negotiated resolution of this matter, and a continuance of the hearing on Mr. Coleman's motion to compel would provide the parties an additional window of time in which a resolution may be reached.

4. A hearing in the case of *United States v. Lonnie Jackson* on an identical motion to compel is also scheduled for June 27, 2017. Mr. Jackson will also be filing a motion to continue the hearing in his case as well.

5. Counsel for the government, David Walsh, does not oppose this motion.

WHEREFORE, Mr. Coleman, by and through undersigned counsel, respectfully requests that this Court continue the hearing on his motion to compel currently scheduled for June 27, 2017 and to reschedule that hearing on the Court's August calendar.

Respectfully Submitted,

FEDERAL PUBLIC DEFENDER

111 Lomas NW, Suite 501
Albuquerque, NM 87102
(505) 346-2489

Electronically filed June 22, 2017

/s/ Aric G. Elsenheimer
Assistant Federal Public Defender

CERTIFICATE OF SERVICE

I hereby certify that on June 22, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification to the following: David Walsh, Assistant United States Attorney.

Electronically filed June 22, 2017

/s/ Aric G. Elsenheimer
Assistant Federal Public Defender